

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----  
ERIC AMIDON; WINSTON BROWNLOW; and  
COLLEGIAN ACTION LEADERSHIP LEAGUE  
OF NEW YORK, by its President,

Plaintiffs,

vs

1:04-CV-256

STUDENT ASSOCIATION OF THE STATE  
UNIVERSITY OF NEW YORK AT ALBANY;  
PRESIDENT OF THE STUDENT ASSOCIATION  
OF THE STATE UNIVERSITY OF NEW YORK  
AT ALBANY, in his Official Capacity; and NEW  
YORK PUBLIC INTEREST RESEARCH  
GROUP "NYPIRG,"

Defendants.

-----  
APPEARANCES:

OF COUNSEL:

THOMAS MARCELLE, ESQ.  
Attorney for Plaintiffs  
2 E-Comm Square, Third Floor  
Albany, New York 12207

LEWIS B. OLIVER, JR., ESQ.  
Attorney for Defendants Student  
Association of the State University  
of New York at Albany and President  
of the Student Association of the State  
University of New York at Albany  
156 Madison Avenue  
Albany, New York 12202

FRIED FRANK HARRIS SHRIVER  
& JACOBSON, LLP  
Attorneys for "NYPIRG"  
24<sup>th</sup> Floor  
One New York Plaza  
New York, New York 10004-1901

DARCY M. GODDARD, ESQ.  
JOHN A. BOREK, ESQ.

DAVID N. HURD  
United States District Judge

**ORDER**

Plaintiffs have moved for attorneys' fees and expenses pursuant to 42 U.S.C. § 1988. Plaintiffs seek attorneys' fees for 203.10 hours at \$210. 00 per hour for a amount of \$42,651 plus the \$150 filing fee as an expense. This results in a total request of \$42,801.00.

Defendants have not contested the reasonableness of the above figures if plaintiffs' motion is granted in full.

Defendant New York Public Interest Research Group ("NYPIRG") objects on the grounds that: (1) plaintiffs achieved only limited success (prevailed on only one cause of action); (2) plaintiffs did not "prevail" against NYPIRG; and (3) NYPIRG is not a state actor nor was it acting under color of state law.

Defendants Student Association of SUNY Albany and President of the Student Association of the State University of New York at Albany, in his official capacity ("SA") object on the grounds that: (1) special circumstance exist; and (2) plaintiffs achieved only limited success. SA also argues that fee liability should be allocated to NYPIRG.

The plaintiffs are clearly the "prevailing party" against SA. The plaintiffs did not "prevail" against NYPIRG. Allocation between the defendants is not warranted.

The plaintiffs did not achieve limited success against SA. In fact, they obtained their desired result in the first cause of action. The dismissal of their alternative theories in the other causes of action did not diminish their success. Further, SA has not presented any viable special circumstances which would warrant a reduction in the fee award.

All of the submissions have been reviewed. The requested hours are reasonable. The requested hourly rate is reasonable. The requested expense is reasonable. The requested fee is the lodestar amount and is reasonable.

Therefore, it is

ORDERED, that

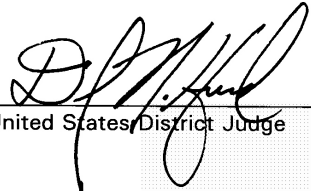
1. Plaintiffs' motion is GRANTED against SA;
2. Plaintiffs' motion is DENIED against NYPIRG; and
3. Plaintiff is awarded \$42,801.00 as attorneys' fees and expenses against SA

pursuant to 42 U. S. C. § 1988.

The Clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.

Dated: May 16, 2006  
Utica, New York



United States District Judge